

November 8, 2001

TO:           Andres Kashnikow, Art Unit 3700  
FROM:        Jeanne Horrigan, EIC-3700 *JH*  
SUBJECT:      Litigation Search Results for US Patent 5,891,021

Attached are the litigation search results for US Patent 5,891,021. The search was conducted in three databases: Inpadoc, Lexis/Nexis, and Questel. Here is a summary of the results.

- Patent family and legal status (from Inpadoc)
- Legal status, patent status, and reissue information (from Questel)
- Reissue information and an article from the Texas Lawyer (from Lexis/Nexis)

There were no litigation alerts on the patent in Questel. There were no law cases or law journal articles on the patent in Lexis/Nexis.

I hope this information is useful. Please let me know if you have any questions or need more information.

## SEARCH REQUEST FORM

## Scientific and Technical Information Center

Requester's Full Name: ANDY KASHNICKOW Examiner #: 60484 Date: 11/8/01  
 Art Unit: 3700 Phone Number 308-1137 Serial Number: 09/828,343  
 Mail Box and Bldg/Room Location: 692-2A01 Results Format Preferred (circle): PAPER DISK E-MAIL

If more than one search is submitted, please prioritize searches in order of need.

\*\*\*\*\*

Please provide a detailed statement of the search topic, and describe as specifically as possible the subject matter to be searched. Include the elected species or structures, keywords, synonyms, acronyms, and registry numbers, and combine with the concept or utility of the invention. Define any terms that may have a special meaning. Give examples or relevant citations, authors, etc, if known. Please attach a copy of the cover sheet, pertinent claims, and abstract.

Title of Invention: \_\_\_\_\_

Inventors (please provide full names): \_\_\_\_\_

Earliest Priority Filing Date: \_\_\_\_\_

\*For Sequence Searches Only\* Please include all pertinent information (parent, child, divisional, or issued patent numbers) along with the appropriate serial number.

LIT SEARCH FOR 5,891,021

\*\*\*\*\*

STAFF USE ONLY		Type of Search	Vendors and cost where applicable
Searcher: <u>J. HORRIGAN</u>		NA Sequence (#) _____	STN _____
Searcher Phone #: <u>305-5934</u>		AA Sequence (#) _____	Dialog <input checked="" type="checkbox"/>
Searcher Location: <u>692-2A01</u>		Structure (#) _____	Questel/Orbit <input checked="" type="checkbox"/>
Date Searcher Picked Up: <u>11/7</u>		Bibliographic _____	Dr.Link _____
Date Completed: <u>11/7</u>		Litigation <input checked="" type="checkbox"/>	Lexis/Nexis <input checked="" type="checkbox"/>
Searcher Prep & Review Time: <u>16</u>		Fulltext _____	Sequence Systems _____
Clerical Prep Time: _____		Patent Family _____	WWW/Internet _____
Online Time: <u>4</u>		Other _____	Other (specify) _____

**Basic Patent (Number,Kind,Date):** US 5891021 A 19990406

**Patent Family:**

Patent Number	Kind	Date	Application Number	Kind	Date
AU 9945609	A1	19991220	AU 9945609	A	19990528
<u>EP 1017312</u>	A1	20000712	EP 99928569	A	19990528
<u>US 5891021</u>	A	19990406	US 89523	A	19980603 (Basic)
WO 9962400	A1	19991209	WO 99US13170	A	19990528
WO 9962400	C1	20000309	WO 99US13170	A	19990528

**Priority Data:**

Patent Number	Kind	Date
US 89523	A	19980603
WO 99US13170	W	19990528

**PATENT FAMILY:**

**Australia (AU)**

Patent (Number,Kind,Date): AU 9945609 A1 19991220

PARTIALLY RIGID-PARTIALLY FLEXIBLE ELECTRO-OPTICAL SENSOR FOR FINGERTIP TRANSILLUMINATION (English)

Patent Assignee: PERDUE HOLDINGS INC

Author (Inventor): DILLON ANDREW JOSEPH; SECUNDA JEFFREY ALBERT; DANIEL TODD JOHNSON

Priority (Number,Kind,Date): US 89523 A 19980603; WO 99US13170 W 19990528

Applic (Number,Kind,Date): AU 9945609 A 19990528

IPC: \* A61B-005/00

Derwent WPI Acc No: \* C 99-253689

Language of Document: English

**European Patent Office (EP)**

Patent (Number,Kind,Date): EP 1017312 A1 20000712

PARTIALLY RIGID-PARTIALLY FLEXIBLE ELECTRO-OPTICAL SENSOR FOR FINGERTIP TRANSILLUMINATION (English; French; German)

Patent Assignee: PERDUE HOLDINGS INC (US)

Author (Inventor): DILLON ANDREW JOSEPH (US); SECUNDA JEFFREY ALBERT (US); DANIEL TODD JOHNSON (US)

Priority (Number,Kind,Date): WO 99US13170 W 19990528; US 89523 A 19980603

Appl (Number,Kind,Date): EP 99928569 A 19990528  
 Designated States: (National) AT; BE; CH; CY; DE; DK; ES; FI; FR; GB; GR; IE; IT; LI; LU; MC; NL; PT; SE  
 IPC: \* A61B-005/00  
 Derwent WPI Acc No: \* C 99-253689  
 Language of Document: English

#### European Patent Office (EP) - Legal Status

Number	Type	Date	Code	Text	
EP 1017312	P	19980603	EP AA	PRIORITY (PATENT APPLICATION) US 89523 A 19980603	(PRIORITAET (PATENTANMELDUNG))
EP 1017312	P	19990528	EP AA	PCT-APPLICATION	(PCT-ANMELDUNG)
				WO 99US13170 W 19990528	
EP 1017312	P	19990528	EP AE	EP-APPLICATION	(EUROPAEISCHE ANMELDUNG)
EP 1017312	P	20000712	EP AK	DESIGNATED CONTRACTING STATES IN AN APPLICATION WITH SEARCH REPORT: AT BE CH CY DE DK ES FI FR GB GR IE IT LI LU MC NL PT SE	(IN EINER ANMELDUNG BENANnte VERTRAGSSTAATEN)
EP 1017312	P	20000712	EP A1	PUBLICATION OF APPLICATION WITH SEARCH REPORT	(VEROEFFENTLICHUNG DER ANMELDUNG MIT RECHERCHENBERICHT)
EP 1017312	P	20000712	EP 17P	REQUEST FOR EXAMINATION FILED 20000515	(PRUEFUNGSANTRAG GESTELLT)

#### United States of America (US)

Patent (Number,Kind,Date): US 5891021 A 19990406  
 PARTIALLY RIGID-PARTIALLY FLEXIBLE ELECTRO-OPTICAL SENSOR FOR FINGERTIP TRANSILLUMINATION (English)

Patent Assignee: PERDUE HOLDINGS INC (US)  
 Author (Inventor): DILLON ANDREW JOSEPH (US); SECUNDA JEFFREY ALBERT (US); JOHNSON TODD (US)

Priority (Number,Kind,Date): US 89523 A 19980603  
 Appl (Number,Kind,Date): US 89523 A 19980603  
 National Class: \* 600310000; 600344000  
 IPC: \* A61B-005/00  
 Derwent WPI Acc No: \* C 99-253689; C 99-253689

Language of Document: English

**United States of America (US) - Legal Status**

Number	Type	Date	Code	Text	
US 5891021	P	19980603	US AE	APPLICATION DATA (PATENT)	(APPL. DATA (PATENT))
				US 89523 A 19980603	
US 5891021	P	19980603	US AS02	ASSIGNMENT OF ASSIGNOR'S INTEREST	
				PERDUE HOLDINGS, INC. 4643 WESTGROVE DRIVE DALLAS, TEXAS 75248 ; DILLON, ANDREW J. : 19980603	
US 5891021	P	19990406	US A	PATENT	
US 5891021	P	19990831	US CC	CERTIFICATE OF CORRECTION	
US 5891021	P	20010925	US RF	REISSUE APPLICATION FILED	(REISSUE APPL. FILED)
				20010406	

**World Intellectual Property Organization, PCT (WO)**

Patent (Number,Kind,Date): WO 9962400 A1 19991209

PARTIALLY RIGID-PARTIALLY FLEXIBLE ELECTRO-OPTICAL SENSOR FOR FINGERTIP TRANSILLUMINATION (English)

Patent Assignee: PERDUE HOLDINGS INC (US); DILLON ANDREW JOSEPH (US); SECUNDA JEFFREY ALBERT (US); DANIEL TODD JOHNSON (US)

Author (Inventor): DILLON ANDREW JOSEPH (US); SECUNDA JEFFREY ALBERT (US); DANIEL TODD JOHNSON (US)

Priority (Number,Kind,Date): US 89523 A 19980603

Applic (Number,Kind,Date): WO 99US13170 A 19990528

Designated States: (National) AU; BR; CA; ID; IL; IN; MX; US; ZA (Regional) AT; BE; CH; CY; DE; DK; ES; FI; FR; GB; GR; IE; IT; LU; MC; NL; PT; SE

Filing Details: WO 100000 With international search report

IPC: \* A61B-005/00

Derwent WPI Acc No: \* C 99-253689

Language of Document: English

Patent (Number,Kind,Date): WO 9962400 C1 20000309

PARTIALLY RIGID-PARTIALLY FLEXIBLE ELECTRO-OPTICAL SENSOR FOR FINGERTIP TRANSILLUMINATION (English)

Patent Assignee: PERDUE HOLDINGS INC (US); DILLON ANDREW JOSEPH (US); SECUNDA JEFFREY ALBERT (US); DANIEL TODD JOHNSON (US)

Author (Inventor): DILLON ANDREW JOSEPH (US); SECUNDA JEFFREY ALBERT (US); DANIEL TODD JOHNSON (US)

Priority (Number,Kind,Date): US 89523 A 19980603

Applic (Number,Kind,Date): WO 99US13170 A 19990528

Designated States: (National) AU; BR; CA; ID; IL; IN; MX; US; ZA (Regional) AT; BE; CH; CY; DE; DK; ES; FI; FR; GB; GR; IE; IT; LU; MC; NL; PT; SE

Filing Details: WO 100000 With international search report

IPC: \* A61B-005/00

Derwent WPI Acc No: \* C 99-253689

Language of Document: English

### World Intellectual Property Organization, PCT (WO) - Legal Status

Number	Type	Date	Code	Text	
WO 9962400	P	19980603	WO AA	PRIORITY (PATENT)	
				US 89523 A 19980603	
WO 9962400	P	19990528	WO AE	APPLICATION DATA	(APPL. DATA)
				WO 99US13170 A 19990528	
WO 9962400	P	19991209	WO AK	DESIGNATED STATES CITED IN A PUBLISHED APPLICATION WITH SEARCH REPORT	(DESIGNATED STATES CITED IN A PUBLISHED APPL. WITH SEARCH REPORT)
				AU BR CA ID IL IN MX US ZA	
WO 9962400	P	19991209	WO AL	DESIGNATED COUNTRIES FOR REGIONAL PATENTS CITED IN A PUBLISHED APPLICATION WITH SEARCH REPORT	(DESIGNATED COUNTRIES FOR REGIONAL PATENTS CITED IN A PUBLISHED APPL. WITH SEARCH REPORT)
				AT BE CH CY DE DK ES FI FR GB GR IE IT LU MC NL PT SE	
WO 9962400	P	19991209	WO A1	PUBLICATION OF THE INTERNATIONAL APPLICATION WITH THE INTERNATIONAL SEARCH REPORT	(PUB. OF THE INTERNATIONAL APPL. WITH THE INTERNATIONAL SEARCH REPORT)
WO 9962400	P	20000202	WO 121	EP: PCT APP. ART. 158 (1)	(EP: PCT ANM. ART. 158 (1))
WO 9962400	P	20000309	WO AK	DESIGNATED STATES	
				AU BR CA ID IL IN MX US ZA	
WO 9962400	P	20000309	WO AL	DESIGNATED COUNTRIES FOR REGIONAL PATENTS	
				AT BE CH CY DE DK ES FI FR GB GR IE IT LU MC NL PT SE	
WO 9962400	P	20000309	WO CFP	CORRECTED VERSION OF A PAMPHLET FRONT PAGE	

WO P 20000309 WO CORRECTION OF ENTRY IN (CORRECTION OF ENTRY  
9962400 CR1 SECTION I IN SECT. I)  
WO P 20000309 WO MODIFIED FIRST PAGE  
9962400 C1

INPADOC/Family and Legal Status

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Dialog® File Number 345 Accession Number 15110802

QUESTEL SEARCH RESULTS FOR US PATENT 5,891,021  
November 8, 2001

Cluster : LEGAL  
Databases : LGST, CRXX, PAST, LITA

Search statement 1: us5891021/pn

Term not in index/PN-LITA : US5891021

LGST	1
CRXX	1
PAST	2
LITA	0
** SS 1 : Results	4

**1/4 LGST (1/1) - (C) LEGSTAT**

PN - US 5891021 [US5891021]  
AP - US 89523/98 19980603 [1998US-0089523]  
DT - US-P  
ACT - 19980603 US/AE-A  
APPLICATION DATA (PATENT)  
{US 89523/98 19980603 [1998US-0089523]}  
- 19980603 US/AS02  
ASSIGNMENT OF ASSIGNOR'S INTEREST  
PERDUE HOLDINGS, INC. 4643 WESTGROVE DRIVE DALLAS, TEXAS 75248 \*  
DILLON, ANDREW J. : 19980603  
- 19990406 US/A  
PATENT  
- 19990831 US/CC  
CERTIFICATE OF CORRECTION  
- 20010925 US/RF  
REISSUE APPLICATION FILED  
20010406  
UP - 2001-40

**2/4 CRXX (1/1) - (C) CLAIMS/RRX**

AN - 3133034  
PN - 5,891,021 D 19990406 [US5891021]  
PA - Perdue Holdings Inc  
PT - M (Mechanical)  
ACT - 20010406 REISSUE REQUESTED  
ISSUE DATE OF O.G.: 20010925  
REISSUE REQUEST NUMBER: 09/828343  
EXAMINATION GROUP RESPONSIBLE FOR REISSUEPROCESS: 3736

Reissue Patent Number:

UP - 1999-34  
UACT- 2001-09-25

**3/4 PAST (1/2) - (C) PAST**

AN - 200139-001732  
PN - 5891021 A [US5891021]  
DT - A (UTILITY)  
OG - 2001-09-25  
CO - REA  
ACT - REISSUE APPLICATION FILED  
SH - REISSUE APPLICATION FILED

**4/4 PAST (2/2) - (C) PAST**

AN - 199935-000224  
PN - 5891021 A [US5891021]  
DT - A (UTILITY)  
OG - 1999-08-31  
CO - COR  
ACT - CERTIFICATE OF CORRECTION  
SH - CERTIFICATE OF CORRECTION

LEXIS NEXIS SEARCH RESULTS FOR US PATENT 5,891,021  
November 8, 2001

LEVEL 1 - 1 OF 1 PATENT

<5,891,021>

<<=2>> GET 1st DRAWING SHEET OF 2

Apr. 6, 1999

Partially rigid-partially flexible electro-optical sensor  
for fingertip transillumination

REISSUE: Reissue Application filed Apr. 6, 2001 (O.G. Sep. 25, 2001) Ex. Gp.: 3736; Re. S.N. 09/828,343

CORE TERMS: sensor, cradle, fingertip, electro-optical, adhesive, concave, non-invasive, opaque, wrapped, depicted...

5,891,021 OR 5891021

Your search request has found no CASES.

Your search request has found no ITEMS.

Your search request has found 1 STORY through Level 1.

LEVEL 1 - 1 OF 1 STORY

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<<=1>> View Related Topics

July 31, 2000

SECTION: Pg. 38

LENGTH: 2835 words

HEADLINE: WHO REPRESENTS HIGH-TECH TEXAS?; THE GO-TO COUNSEL FOR CUTTING-EDGE COMPANIES

BYLINE: JENNY BURG

BODY:

... not just a patent lawyer; he's a patent holder.

A year ago, he received U.S. Patent No. <5,891,021> for inventing a device that measures blood oxygen levels. He invented it when a client wanted to get into the business, but discovered that the gadget it wanted to sell was already patented. Dillon set out to make what he calls a "design-around."

"I built a prototype in my garage with PVC pipe, tapes and wires," Dillon says, matter-of-factly. "It hasn't made me rich yet, but the board voted me some stock options."

His model is now under glass at the company's Dallas headquarters.

Dillon is no stranger to hard work. He was the first person in his family to go to college, and he earned his electrical engineering degree courtesy of the U.S. Navy; he attended Purdue University while on active duty. He then went to law school on the GI Bill and made his first dollars writing patents for TI's Speak & Spell educational toy. He has since chaired the State Bar of Texas' IP section, and he recently became the 14th lawyer to receive the Chair Award for outstanding contributions to the field of patent law.

Although he does work for such companies as Northern Telecom, Hewlett Packard and LSI, he is most widely known in patent circles for his primary client, IBM.

"What I like best is the variety," Dillon says of his practice. "When I worked at TI, I had a friend who spent six months of his life on a problem that never got solved. I am always working on a smorgasbord of the latest and greatest technical innovation."

W. Bryan Farney Brobeck, Phleger & Harrison, Austin

Bryan Farney's client list reads like a who's who of high-tech practice: Compaq, Samsung, Lex-mark, Molecular Bio-systems, Intel, Medtron-ic, AMD and GTE Wireless. He also spent four years as in-house counsel for Micron Technology. So it's not surprising that Brobeck, Phleger & Harrison hired him in 1998 to beef up the patent practice in its Austin office.

At the time, Farney was in San Diego serving as the CEO of a semiconductor startup company and running a patent consulting practice. The timing of Brobeck's offer seemed right.

"My family is from Texas. I wanted to be in Texas. They wanted to bring a big-scale, Fortune 500 patent practice here," he explains.

On Farney's watch, the number of patent lawyers grew from three to nearly 20. And then there are those blue chip clients.

Farney says he knew he wanted to be a patent lawyer as far back as high school. A teacher had a friend who was a patent lawyer at IBM, and working with technology sounded interesting. So he got his undergrad degree in physics, then earned a master's in structural dynamics from the University of Texas and stayed on for the JD.

"That qualifies me as a super geek - beyond super geek," says Farney.

To those he practices with, however, this experience also makes Farney a formidable lawyer. According to fellow partner James D. Smith, Farney has "substantial intellect and a great understanding of the legal process." In fact, when Smith was chief IP counsel at Lexmark, he hired Farney to represent the company.

"He has an enormous dedication to winning," says Smith. "That is rarer than I would have thought - to be that committed to something is not that easy to find."

Mike Heim Conley, Rose & Tayon, Houston

Mike Heim gets his clients the old-fashioned way: He asks. An active member of the Houston Intellectual Property Association - he is a past president - Heim says he got to know some in-house counsel for Dell, and he "just asked for the work." The result? "They gave us some," he says casually.

So when he learned that Compaq was on the lookout for lawyers, the feisty 39-year-old knew the drill.

"I called and said I was interested in representing them," Heim recalls. "After several meetings, they decided to give us a chance with some work."

Heim believes that Conley, Rose is now the computer company's leading outside firm.

"The high-tech companies don't always want to go to the most senior people - they want young people who know the technology," he says.

Of course, it doesn't hurt that Heim is the kind of lawyer his peers describe as "cutting edge," a "very bright litigator" and "excellent all around." After earning a degree in electrical engineering, he worked his way through George Washington University School of Law by moonlighting at the U.S. Patent and Trademark Office. That he would eventually land in high-tech IP, says Heim, was "a no-brainer."

One of Heim's favorite parts about representing Compaq (and his other clients, such as Halliburton and AMD) is the people.

"They live and breathe this stuff, and they know more than anyone else in the world," says Heim. "And it's my job to explain it in a context the layperson can understand."

#### David Parker Fulbright & Jaworski, Austin

David Parker says he has two part-time jobs. As head of the IP department at Fulbright & Jaworski's Austin office, he helps biotechnology companies and pharmaceutical labs get patents and develop strategies for their patent portfolios. As vice president of Introgen Therapeutics, he adds the legal contribution to the company's gene therapy research, which includes Phase III head and neck cancer trials and Phase II lung cancer trials.

Parker's practice may sound fascinating, but it's one seldom available to mere mortals. Before becoming a lawyer, Parker worked as a molecular pharmacologist. He holds a Ph.D. from Baylor College of Medicine and spent three years on the school's faculty. In addition to the scholastic demands, there's the time commitment. Often, serving both masters turns Parker's part-time positions into two more-than-full-time jobs.

Parker decided to study for a law degree in the early 1980s after watching the formation of such companies as Biogen and Genentech.

"I saw [then] that there was going to be a real opportunity in IP for someone with a molecular biology background," he says.

Parker joined Fulbright in February 2000 after serving as managing partner of the Austin office of Arnold, White & Durkee. While with Arnold, White, one of his main clients was a company that developed genetically engineered crops.

"I was never a great scientist - I always had great ideas but nothing ever worked out for me," Parker says. "Now I get to play a vicarious role on the cutting edge of technology, being right there when the truly great breakthroughs are being made in medical science."

#### Scott Partridge Baker Botts, Houston

Imagine spending nearly two years on a case in which you served as lead counsel, developed the damage theory, took depositions for almost 500 days and reviewed millions of documents. Then imagine handing that case off to a lawyer in another department because you felt that it was best for the client. That's similar to what Scott Partridge did with Alcatel USA, et al. v. Samsung Electronics Co., et al.

"I felt that it was one of those cases that had enough of a mix of trial and IP issues to team [up]," says Partridge.

As co-lead counsel, Partridge says he handled the technical side and let fellow Baker Botts attorney Joseph Cheavens do the rest. The case settled during trial; Partridge says the agreement was confidential, but he reveals that the amount resulted in some "very happy partners."

With a resume that includes a JD from Georgetown, an undergraduate degree in electrical engineering, a stint as a patent examiner and adjunct professor at Georgetown, and a recent election to the House of Delegates of the American Bar Association's Science and Technology Section, no one would deny Partridge bragging rights. Yet his ability to put case strategy before ego is just one

reason Partridge is among the elite of high-tech IP litigators.

"Litigating an IP case these days isn't about pulling a lot of tactical gamesmanship. When you're straight with it, judges respect you for it," he says.

Anthony Peterman, in-house IP counsel at Dell, watched Partridge earn this respect when Partridge represented Dell at a recent hearing.

"He's the type of person you want to represent you in front of a judge because he does such a great job of building credibility and presenting your issues in an understandable way," says Peterman. "He can understand the tech and at the same time put a trial lawyer spin on it. There's no two ways about it. He's good."

#### Two Up-and-Comers

##### Dwayne L. Mason Winstead, Sechrest & Minick, Houston

With 10 years of engineering experience and seven years of IP experience, it seems strange to consider Winstead Sechrest & Minick shareholder Dwayne Mason an "up-and-comer." But he doesn't mind the description - it may be a function of Mason's refusal to develop his practice in any one specific niche. The chemical engineer would rather draw on his range of experience in process control, hardware, software and plant design. Recently, he has been working with traditional companies that are entering the virtual world. His clients include Internet startups such as emarketbase.com.

"It allows me to utilize my practical engineering ability and experience along with my intellectual property experience," he says. "We speak the same language and have been involved in the same things - getting a business up and running and becoming successful."

One of the high-tech businesses that Mason works with is RealUse.com Internet Service, a Houston-based ASP aggregator. CEO Gene McCubbin says he hired Mason after he heard him speak at a technology seminar for high-tech startups. McCubbin says he liked what he heard, and colleagues at other high-tech companies spoke highly of Mason. For the past seven months, McCubbin says Mason has worked with RealUse.com to protect its business model as well as the technology that runs the service.

"He seems to know the technology really well," McCubbin says. "It makes it easier for us to pursue relatively high-tech patents."

##### Matt Yarbrough Vinson & Elkins, Dallas

During his tenure with the Office of the U.S. Attorney, Matt Yarbrough became the Web criminal's worst nightmare. As head of the Northern District's CyberCrimes Task Force, he successfully prosecuted cases on behalf of AT&T, GTE, Microsoft, Adobe, Travelocity, Apple, Sprint, Caterpillar, EDS, Dell and Intel.

"My background is [fighting] cyber crime, but in doing that, I also learned the ins and outs of why companies don't properly protect their IP," he says.

Yarbrough now uses this knowledge in his new position as special Internet counsel for Vinson & Elkins. He says his clients range from companies as small as startup ASPs to giants Halliburton and Dell. And details are in the works for Yarbrough to play a role with the Office of the Attorney General, advising on

such matters as e-commerce, privacy and cyber crimes.

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